HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 26269 OF 2006

Between:

Electroflo Batteries Private Limited,
Kattedan Industrial Complex,
R.R.District

..... Petitioner

AND

The State of Andhra Pradesh,
Rep. by its Secretary Environment,
Forest Science and Technology,
Hyderabad & others

.....Respondents

:: O R D E R ::

Counsel for the petitioner : Shri O. Kailashnath Reddy

Dated: 02.01.2007

Per G.S.SINGHVI, CJ

This petition is directed against order dated 10.11.2006 passed by Andhra Pradesh Pollution Control Board (for short 'the Board'), whereby it rejected the petitioner's application for grant of consent to operate the industry.

We have heard Shri O. Kailashnath Reddy, learned counsel for the petitioner and perused the record. In our opinion, the writ petition is liable to be dismissed on the short ground that the petitioner has got an effective alternative remedy by way of appeal under Section 28 of the Water (Prevention and Control of Pollution)Act , 1974 and there is no extraordinary reason for making a departure from the settled rule that the High Court will not entertain writ petition under Article 226 of the Constitution of India, if an effective alternative remedy is available to the petitioner. Learned counsel for the petitioner could neither show that the remedy of appeal available to the petitioner is not effective or that the petitioner's case falls within the ambit of the exceptions enumerated in the judgments of the Supreme Court in

Baburam v. Zilla Parishad[1] and **Harbanslal Sahnia v. Indian Oil Corporation Ltd.**[2]

For the reason afore-stated, the writ petition is dismissed leaving the petitioner free to avail the remedy of appeal. With a view to facilitate proper adjudication of the appeal, which may be filed by the petitioner, we direct that if the petitioner files appeal within a period of two weeks from today, then the same shall be entertained, considered and decided on merits and the Board shall not be entitled to raise the objection of limitation.

As a sequel to dismissal of the writ petition, W.P.M.P.Nos.33762 and 33763 of 2006 filed by the petitioner are also dismissed.

G.S.SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

02.01.2007
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[1] AIR 1969 SC 556

[2] (2003) 2 SCC 107